

Board of Adjustment

Minutes



**City Council Chambers, Lower Level
June 9, 2009**

Board members Present:

Mike Clement, Chair
Dianne von Borstel
Greg Hitchens
Garrett McCray
Linda Sullivan
Scott Thomas

Board members Absent:

Judah Nativio (unexcused)

Staff Present:

Jeff McVay
Mia Lozano-Helland
Tim Lillo
Wahid Alam
John Wesley

Others Present:

Sean Sloan Bob Done
Tressa Done Ralph Pew
Josh Goins Larry Pew
Edna Martinez
Darrell Bellomy
Kelli & Richard Pew

The study session began at 4:30 p.m. The Public Hearing meeting began at 5:30 p.m. Before adjournment at 6:00 p.m., the following items were considered and recorded. The recording is available upon request.

Study Session 4:30 p.m.

- A. The study session began at 4:30 p.m. The items scheduled for the Board's Public Hearing were discussed.

Public Hearing 5:30 p.m.

- A. Consider Minutes from the May 12, 2009 Meeting A motion was made to approve the minutes by Board member von Borstel and seconded by Board member Sullivan. Vote: Passed 6-0
- B. Consent Agenda A motion to approve the consent agenda as read was made by Board member McCray and seconded by Board member Thomas. Vote: Passed 6-0

**Board of Adjustment Meeting
May 12, 2009**

Case No.: BA09-017

Location: 3405 North Higley Road

Subject: Requesting a Special Use Permit (SUP) to allow a Comprehensive Youth Residence in the R1-90 zoning district.

Decision: Approved with conditions

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Board member McCray, seconded by Board member Thomas to approve case BA09-017 with the following conditions.

1. Compliance with the plan and narrative submitted, including continued phased development pursuant to the master plan submitted;
2. *Paving of all primary vehicular access drives which lead to children's or staff residence; access drives between the primary drive and the individual residences may use a base course of crushed granite or gravel as a dust control parking surface.*
3. *Any submittal for a building permit involving the addition of new floor area for non-residential land uses shall include a full inventory of all residential and non-residential building gross floor area for the entire facility.*
4. *Landscaping adjacent to Higley Road shall be planted at a ratio of 1 tree and 6 shrubs per 100 lineal feet of street frontage. Every second building permit issued for a children's residence shall require a minimum of 300 feet of Higley Road street front to be landscaped. The intent behind this requirement is to provide street-side landscaping that is typical for commercial, industrial and institutional land uses where adjacent to arterial streets, but to do so in a manner that maintains open desert spacing that is common between native plant materials, and as used elsewhere on the facility's campus. Trees at time-of-planting shall be a minimum 15-gallon size. If native plant materials (as depicted on the Preferred Desert Uplands Plant List pursuant to Mesa City Code Sec 9-6-5), automatic irrigation systems are not required at the time of installation of the landscaping.*

Vote: Passed 6-0

Findings:

- 1.1 Sunshine Acres Children's Home has been located at this site for more than 50 years.
- 1.2 The case site is larger than the minimum 20 acres required, and the facility has more than 25 beds licensed by the State of Arizona for a children's residence. On-site facilities include offices, recreational buildings and fields, a chapel, a medical clinic, as well as on-site residences for staff and parentless youth.
- 1.3 The master plan calls for the phased development of up to 28 children's dormitories, housing up to 250 children.

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- 1.4** A previous variance (ZA05-47) permitted the existing fence that exceeds the maximum height permitted within a required front yard. There will be no changes to this variance.
- 1.5** The landscaping along Higley Road will be completed incrementally, as new children's residences are constructed. In addition, the landscaping will maintain the typical open desert spacing practice.
- 1.6** The facility complies with the recent change to the Zoning Ordinance regarding the placement of a Comprehensive Youth Residence in the R1-90 zoning district, and permits the application and approval of a Special Use Permit for Comprehensive Youth Residences in the R1-9 district.

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**Board of Adjustment Meeting
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Case No.: BA09-019

Location: 758 East Brown Road

Subject: Requesting: 1) a Development Incentive Permit (DIP); and 2) a Special Use Permit (SUP); all in conjunction with the development of a retail store and automobile service station in the C-2 zoning districts.

Decision: Continued for 30 days to the July 14, 2009 meeting.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Board member McCray, seconded by Board member Thomas to continue BA09-019.

Vote: Passed 6-0

Findings: N/A

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**Board of Adjustment Meeting
May 12, 2009**

Case No.: BA09-021

Location: 9101 East Baseline Road

Subject: Requesting a Special Use Permit to modify a Comprehensive Sign Plan in the C-2 zoning districts.

Decision: Approved with conditions.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Board member McCray, seconded by Board member Thomas to approve case BA09-021 with the following conditions.

- 1. Compliance with the comprehensive sign program for Weingarten/Monvis LLC Monte Vista Village Center Shops as submitted (BA03-016), except as modified by the conditions listed below.*
- 2. Compliance with the aggregate attached sign area for the Safeway store/major tenant building to a maximum of 350 sq. ft. or less, to be divided into a maximum of nine (9) signs per BA03-016.*
- 3. A maximum of three (3) attached signs per pad tenant.*
- 4. Proposed signs shall be compatible with existing in design, materials and color.*
- 5. Compliance with all requirements of current sign agreements with the City of Mesa.*
- 6. Compliance with all requirements of the Building Safety division with regard to the issuance of building permits and sign permits.*

Vote: Passed 6-0

Findings:

- 1.1** The City Council approved the rezoning of the case site, from R-4-PAD to C-2 September of 2002.
- 1.2** As part of the approval, a condition was placed requiring the applicant to submit for a comprehensive sign plan.
- 1.3** A Comprehensive Sign Plan adopted in 2003 (BA03-016), for the shopping center, included nine (9) attached signs with an aggregate of 350 sq. ft. for the Safeway were approved.
- 1.4** The amendment to the Comprehensive Sign Plan complies with the approved Plan for the size and number of attached signs.
- 1.5** Safeway's current rebranding process and desire to replace the current signs and logos justifies the request.

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**Board of Adjustment Meeting
May 12, 2009**

Case No.: BA09-022

Location: 2518 West Monte Avenue

Subject: Requesting a Variance to allow an addition into the required side yard in the R1-6-DMP zoning district.

Decision: Continued for 30 days to the July 14, 2009 hearing.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Board member McCray, seconded by Board member Thomas to continue BA09-022 to the July 14, 2009 meeting.

Vote: Passed 6-0

Findings: N/A

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**Board of Adjustment Meeting
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Case No.: BA09-023

Location: 502 East Lynwood Street

Subject: Requesting a variance to allow a fence to exceed the permitted height in the required front yard in the R1-6 zoning district.

Decision: Approval with conditions

Summary: Richard Pew represented the case and summarized the request including safety factors related to the neighborhood. Neighbors Bob Done, Edna Ruth Martinez and Tressa Done spoke in favor of the variance. Mr. McVay provided the staff analysis and recommendation. After discussion, it was determined that the fence could not remain at its present height. The Board provided two options for the applicant to consider in order to gain approval the fence.

Motion: It was moved by Board member Hitchens, seconded by Board member von Borstel to approve BA09-023 with the following conditions.

1. *The applicant may choose to either:*
 - a) *Relocate the fence to the front building setback of twenty feet (20') or*
 - b) *Lower the fence to four feet (4) at the present fence location excepting the mail box pillar.*
2. *Compliance to be accomplished within ninety (90) days.*
3. *Applicant to consult with Zoning Administration staff to verify compliance.*

Vote: Passed 6-0

Findings:

- 1.1 The variance will permit an existing block and wrought iron fence that exceeds 3'-6" in height to remain within the required front setback. Current Zoning Code permits such fences at a maximum height of 3'-6" within the front setback. The fence exists, has a height of between 5'-5" and 5'-10", and is the subject of a Code Compliance Case (COD2009-02905). While the walls exist, the Board reviewed the case as if it were still just a plan on paper, giving neither penalty for the walls being present without the correct authorization, nor concern for having to maintain the applicant's investment.
- 1.2 As justification for the variance, the applicant noted: 1) the fence provides some level of protection to children in the event a vehicle were to have an accident; 2) the fence acts as a deterrent to people that would try to harm children; and 3) there has been precedent set by other variances granted in the vicinity.
- 1.3 The extended fence will require the granting of a variance. The Board of Adjustment must find the following in granting a variance:
 - a) There are special conditions that apply to the land or building.
 - b) The special condition is pre-existing and not created by the property owner.
 - c) That strict compliance with the Code will deprive the property of privileges enjoyed by other properties in the same zoning district.
 - d) The variance will not constitute a special privilege unavailable to other properties in the

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vicinity and zoning district of the subject property.

- 1.4** The justification for the increased wall height primarily relates to safety concerns for the family. Such justification does not relate to unique conditions of the land to support the variance. While the safety of children is a valid concern, the applicant has not shown there are unique conditions of the property itself that justify the request.
- 1.5** Other properties in the neighborhood have been granted variances. However, those requests related to setback reductions in conjunction with the placement of a new home or addition of a carport. While the applicant's request must be reviewed on its own merits, review of variances granted in the vicinity shows that none have been granted for fence height. Consequently, granting of a variance will constitute granting of special privilege unavailable to other properties.

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Case No.: BA09-024

Location: 5941 East McKellips Road

Subject: Requesting a Special Use Permit (SUP) to modify a Comprehensive Sign Plan in the C-2 zoning district.

Decision: The case was withdrawn.

Summary: This case was on the consent agenda and not discussed on an individual basis.

Motion: It was moved by Board member McCray, seconded by Board member Thomas to withdraw case BA09-024 with the following conditions.

Vote: Passed 6-0

Findings: N/A

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Respectfully submitted,

Gordon Sheffield, AICP
Zoning Administrator
Board of Adjustment

Minutes written by Mia Lozano-Helland
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